

MONTANA LEGISLATIVE HISTORY

Chapter 563 19 79

Bill H 785 S _____

Original bill & history X c

H. Committee on NATURAL RESOURCES S. Committee on NATURAL RESOURCES

Hearing Date(s) 2/19 X c
 & EXEC ACTION _____ c

Hearing Date(s) 3/7 X c

EXEC ACTION 3/12 X c

BEST COPY
 AVAILABLE

Date Out _____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

NOTE: WE DO NOT HAVE ANY EXHIBITS
 FROM THE HOUSE NATURAL RESOURCES
 COMMITTEE FOR 1979

CHAPTER NO. 563.

HOUSE BILL NO. 785

INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

IN THE HOUSE

February 13, 1979	Introduced and referred to Committee on Natural Resources.
February 20, 1979	Intent statement attached. Committee recommend bill do pass. Report adopted.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass as as amended.
February 23, 1979	Correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Natural Resources.
March 14, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 21, 1979	Returned from second house. Concurred in as amended.
March 22, 1979	On motion consideration passed until the 71st Legislative Day.

March 30, 1979

Second reading, amendments
adopted.

March 31, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 785
2 INTRODUCED BY Norman F. Schell
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
5 RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD
6 AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES
7 OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR
8 PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS
9 22-3-401 THROUGH 22-3-413, MCA."
10
11 WHEREAS, Article IX, section 4, of the Montana
12 constitution requires that the legislature provide for the
13 identification, acquisition, restoration, enhancement,
14 preservation, and administration of historic, archeologic,
15 scientific, and cultural areas, sites, records, and objects
16 and for their use and enjoyment by the people; and
17 WHEREAS, rapid social and economic development of
18 contemporary society threatens to destroy the remaining
19 vestiges of Montana's rich heritage; and
20 WHEREAS, it is in the interest of all Montanans that
21 state government provide leadership in historic preservation
22 for the general education, inspiration, pleasure, and
23 enrichment of the people.
24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Preservation review board. (1) There is a
2 preservation review board within the Montana Historical
3 Society consisting of nine members.
4 (2) Members shall be appointed by the governor in the
5 following manner:
6 (a) five professional persons recognized in the fields
7 of archeology, history, architecture, or architectural
8 history; however, no more than two members may be appointed
9 from any one of these fields;
10 (b) a professional paleontologist;
11 (c) the state liaison officer for the federal land and
12 water conservation fund;
13 (d) two members of the public who have actively
14 demonstrated an interest in historic preservation matters.
15 (3) Each member shall serve a 4-year term. A member
16 may be reappointed.
17 Section 2. Transition period -- appointment of
18 preservation review board members. (1) For the purpose of
19 providing staggered terms, the initial terms of preservation
20 review board members shall be as follows:
21 (a) two members appointed for a 1-year term;
22 (b) two members appointed for 2-year terms;
23 (c) two members appointed for 3-year terms; and
24 (d) three members appointed for 4-year terms.
25 (2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
3 Unless he is a full-time salaried officer or employee of
4 this state or of a political subdivision, each member is
5 entitled to be paid \$21 a day for each day in which he is
6 actually and necessarily engaged in board duties and to
7 reimbursement for travel expenses as provided for in
8 2-18-501 through 2-18-503, incurred in the performance of
9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
11 16], unless the context clearly indicates otherwise, the
12 following definitions apply:

13 (1) "Antiquities permit" means the permit granted for
14 exploration or field investigations of heritage properties
15 or paleontological remains provided for in [section 8].

16 (2) "Heritage property" means any district, site,
17 building, structure, or object located upon or beneath the
18 earth or under water that is significant in American
19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
21 within the Montana Historical Society provided for in
22 [section 6].

23 (4) "Historic preservation officer" means the officer
24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
2 nature found upon or beneath the earth or under water.

3 (6) "Preservation review board" means the board
4 provided for in [section 1].

5 (7) "Register" means the National Register of Historic
6 Places, the official list of the nation's heritage
7 properties worthy of preservation because of national,
8 state, or local significance.

9 (8) "Registered property" means any heritage property
10 listed in the register.

11 (9) "State agency" means any executive agency of the
12 state of Montana.

13 Section 5. Preservation review board -- duties. The
14 preservation review board shall:

15 (1) recommend nominations to the register;

16 (2) approve or disapprove all nominations to the
17 register;

18 (3) approve or disapprove additions to statewide
19 inventories of heritage properties;

20 (4) review the annual work program that recommends
21 preservation goals and grant allocations for the next
22 succeeding fiscal year; and

23 (5) act in an advisory capacity to the historic
24 preservation office and to state agencies.

25 Section 6. Historic preservation office -- duties of

1 historic preservation officer. (1) There is established the
2 historic preservation office within the Montana Historical
3 Society to consist of an historic preservation officer and a
4 qualified professional staff.

5 (2) The historic preservation officer is appointed by
6 the governor.

7 (3) The historic preservation officer has the
8 following duties and responsibilities:

9 (a) follow necessary procedures to qualify the state
10 for money that is now or will be made available under any
11 act of congress of the United States or otherwise for
12 purposes of historic preservation;

13 (b) conduct an ongoing statewide survey to identify
14 and document heritage properties and paleontological
15 remains;

16 (c) maintain a state inventory file of heritage
17 properties and paleontological remains and maintain a
18 repository for all such inventory work done in the state;

19 (d) evaluate and formally nominate potential register
20 properties according to the criteria established by the
21 register;

22 (e) prepare and annually review the state preservation
23 plan, register nominations, and historic preservation grant
24 activity;

25 (f) maintain, publish, and disseminate information

1 relating to heritage properties and paleontological remains
2 in the state;

3 (g) cooperate with and assist local, state, and
4 federal government agencies in comprehensive planning that
5 allows for the preservation of heritage properties and
6 paleontological remains;

7 (h) any other necessary or appropriate activity
8 permitted by law to carry out and enforce the provisions of
9 [sections 3 through 16].

10 Section 7. Registration of heritage properties. (1)
11 Any citizen of Montana may submit the necessary forms to
12 nominate heritage properties to the register.

13 (2) For properties not administered, controlled, or
14 owned by the state, the historic preservation officer may,
15 upon approval by the preservation review board and after
16 written notification by the landowner, nominate heritage
17 properties to the register and may enter into cooperative
18 agreements with the federal government, local governments,
19 and other governmental entities or private landowners or the
20 owners of objects to ensure preservation and protection of
21 registered properties.

22 (3) For lands administered, controlled, or owned by
23 the state, the historic preservation officer may, upon
24 approval by the preservation review board, nominate heritage
25 properties to the register. The historic preservation

1 officer shall notify the appropriate state agency and give
2 public notice when any property is being considered for
3 nomination. Unless state agency or public objections are
4 submitted in writing within 30 days after notification, the
5 historic preservation officer shall complete the
6 nominations. When a state agency or any citizen of Montana
7 submits written objections, the historic preservation
8 officer shall consider the objections and may conduct a
9 public hearing. Within 60 days after submission of the
10 objections or after the public hearing, the historic
11 preservation officer shall make a final decision on the
12 proposed registration and prepare a statement responsive to
13 the objections submitted.

14 Section 9. Issuance of permits. (1) No person may
15 excavate, remove, or restore any heritage property or
16 paleontological remains on lands administered, controlled,
17 or owned by the state without first obtaining an antiquities
18 permit from the historic preservation officer.

19 (2) Antiquities permits are to be granted only after
20 careful consideration of the application for a permit and
21 after consultation with the appropriate state agency.
22 Permits are subject to strict compliance with the following
23 guidelines:

24 (a) Antiquities permits may be granted only for work
25 to be undertaken by reputable museums, universities,

1 colleges, or other historical, scientific, or educational
2 institutions, societies, or persons with a view toward
3 dissemination of knowledge about cultural properties,
4 provided no such permit may be granted unless the historic
5 preservation officer is satisfied that the applicant
6 possesses the necessary qualifications to guarantee the
7 proper excavation of those sites and objects that may add
8 substantially to man's knowledge about Montana and its
9 antiquities.

10 (b) The antiquities permit must specify that a summary
11 report of such investigations, containing relevant maps,
12 documents, drawings, and photographs, be submitted to the
13 historic preservation officer. The historic preservation
14 officer shall determine the appropriate time period
15 allowable between all work undertaken and submission of the
16 summary report.

17 (3) All heritage property and paleontological remains
18 collected under an antiquities permit are the permanent
19 property of the state and must be deposited in museums or
20 other institutions within the state or loaned to qualified
21 institutions outside the state, unless otherwise provided
22 for in the antiquities permit.

23 (4) An antiquities permit is not a substitution for
24 any other type of permit that a state agency may require for
25 other purposes.

1 Section 9. State agency participation. State agencies
2 shall:

3 (1) adopt policies for the preservation of heritage
4 properties and paleontological remains and avoid, whenever
5 feasible, state actions, or state assisted or licensed
6 actions that substantially alter heritage properties or
7 paleontological remains;

8 (2) identify and develop, in consultation with the
9 historic preservation officer, methods and procedures to
10 ensure that the identification and protection of heritage
11 properties and paleontological remains is given appropriate
12 consideration in state agency decisionmaking;

13 (3) deposit in the historic preservation office all
14 inventory reports, including maps, photographs, and site
15 forms, of heritage properties and paleontological remains.

16 Section 10. Environmental review process. (1) Each
17 state agency responsible for the preparation of an
18 environmental impact statement in accordance with the
19 Montana Environmental Policy Act shall, as a part of its
20 evaluation and study process, consult with and obtain the
21 comments of the historic preservation officer concerning the
22 identification and location of heritage properties and
23 paleontological remains that may be adversely impacted by
24 the proposed action.

25 (2) When heritage properties and paleontological

1 remains are located and identified as described in
2 subsection (1), the responsible state agency, in
3 consultation with the historic preservation officer and the
4 preservation review board, shall include as part of its
5 environmental impact statement a plan for the avoidance or
6 mitigation of damage to heritage properties and
7 paleontological remains to the greatest extent practicable.
8 Whenever necessary or appropriate, the state agency may
9 require an applicant for a lease, permit, license, or other
10 approval to develop an avoidance or mitigation plan in
11 consultation with the historic preservation officer and the
12 preservation review board.

13 Section 11. Denial of applications. State agencies may
14 deny or approve with conditions any application for an
15 easement, lease, permit, contract, license, or certificate
16 in order to protect registered properties.

17 Section 12. Report of discovered heritage properties
18 or paleontological remains. Any person conducting
19 activities, including survey, excavation, or construction
20 who discovers on any lands administered, controlled, or
21 owned by the state any heritage property or paleontological
22 remains as defined in [section 4] or who finds that an
23 operation licensed or otherwise entitled by the state may
24 damage heritage properties or paleontological remains shall
25 promptly report to the historic preservation officer the

1 discovery of such findings and shall take all reasonable
2 steps to ensure preservation of the heritage property or
3 paleontological remains.

4 Section 13. Injury, damage, or removal of heritage
5 property and paleontological remains. No person may
6 knowingly or purposely injure, damage, or remove any
7 heritage property or paleontological remains on private land
8 without written consent of the owner or on lands
9 administered, controlled, or owned by the state without a
10 permit pursuant to [section 8].

11 Section 14. Reproduction or sale of heritage property
12 and paleontological remains. (1) No person may reproduce or
13 falsely identify any heritage property or paleontological
14 remains with the intent to sell the property or remains as
15 an original.

16 (2) No person may sell any heritage property or
17 paleontological remains with the knowledge that the property
18 or remains have previously been collected or excavated in
19 violation of [sections 3 through 14].

20 Section 15. Violation a misdemeanor -- penalty. A
21 person violating any provision of [sections 3 through 14] is
22 guilty of a misdemeanor and upon conviction shall be fined
23 not more than \$1,000 or be imprisoned in the county jail for
24 not more than 6 months, or both. Each day of continued
25 violation of any provision of [sections 3 through 14]

1 constitutes a distinct and separate offense.

2 Section 16. Judicial remedy. The policies, duties, and
3 procedures of [sections 3 through 14] are enforceable by any
4 party on application to a district court of the state. The
5 court may grant such relief, including injunctive relief, as
6 it determines appropriate.

7 Section 17. Severability. If a part of this act is
8 invalid, all valid parts that are severable from the invalid
9 part remain in effect. If a part of this act is invalid in
10 one or more of its applications, the part remains in effect
11 in all valid applications that are severable from the
12 invalid applications.

13 Section 18. Repealer. Sections 22-3-401 through
14 22-3-413, MCA, are repealed.

-End-

NATURAL RESOURCES COMMITTEE

46 Legislature

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Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 742	Act to clarify the authority of state agencies, boards, and commissions to use information gained in preparing EICs to implement the policies, etc.	Feb. 10	Shelden	2/19	DO PASS	2/19
HB 746	Act to restrict the acceptance by the state of land obtained through condemnation procedures by the US unless approved by the MT legislature, etc.	Feb. 12	Curtiss	2/19	Referred to Judiciary	Feb. 15
HB 759	Act to revise and clarify the laws related to forest fire hazard reduction withholding rates and make them more enforceable, etc.	Feb. 12	Bertelsen	2/19	DO PASS	2/19
HJR 36	Urges development of the Missouri River channel in order to accommodate barge traffic to transport cereal grains and other cargo.	Feb. 12	Nathe	2/19	DO PASS	2/19
HB 773	Act to create a pilot grant cost-sharing program on Flathead Lake for marina operators to install facilities for the proper disposal of human wastes from boats, etc.	Feb. 13	Seitert		Referred to E&I	2/19
HB 785	Revise the laws relating to antiquities; creating a preservation advisory board and an historical preservation office, etc.	Feb. 13	Dussault	2/19	DO PASS	2/19

RUSS LASSEY, Pepsi Cola Bottling Company, spoke in opposition. He said there should be an amendment to control travel to other states. He mentioned an experiment conducted by the EPA at Malmstrom Air Force Base on mandatory deposits that wasn't too satisfactory. A copy of his testimony is exhibit 27.

SANNA PORTE, Montana for Deposit Legislation, felt this study would be a waste of time and money as they have spent innumerable hours researching this in the past six or seven months.

MIKE MALES, Montana Deposit Legislation, said the study they have done has been much more concentrated than a four day visit to a state with bottle legislation could be. If we accept this bill it would mean two more years of land filling valuable resources and then if history is any teacher the study would be largely ignored anyway. He said they would be glad to cooperate if the bill passes.

ROBERT RASMUSSEN, Montana for Deposit Legislation, said this bill would have a delaying effect and would increase the number of nonrecyclable bottles in Montana.

GARY MATTSON, EIC, said he is very impressed with the work of the Montana for Deposit Legislation people. He opposed the bill.

LOREN GUNDERSON said going to another study will probably not turn in that much new knowledge.

In closing Rep. Hemstad said she would not oppose any amendments. She said recycling is an important subject and the legislature should take time for an interim study of it. Action should be taken by the legislature rather than by an initiative.

HOUSE BILL 735

REPRESENTATIVE ANN MARY DUSSAULT, District 95, the chief sponsor, said this is an act to revise the laws relating to antiquities.

KEN KORTE, State Historic Preservation Officer, spoke and a copy of his testimony is exhibit 28 and exhibit 29 of the minutes.

DONALD KERNS, Developer for the City of Helena, said this would have a big effect on individual localities that are involved in saving historic buildings or sites. He said this bill will make it easier for local people to receive federal grants in their historic preservation efforts. He said restoring an old building can be very expensive and they need all the help they can get.

CORRECTION: KUMER, Butte-Silver Bow Arts Foundation, showed pictures of the old Clark Building which his group is restoring. He said they lost \$24,000 in grants simply because the office was not properly staffed. He said they plan to make a cultural art center of the building.

STUART LEWIN, Diamond S. Ranch Hotel, Boulder, said they were in the middle of putting together a project that will cost between one and two million dollars and to do that they have to go through the state to get that money. He said this bill will help all.

J. D. HOLMES, Montana Institute of Arts Foundation, said there is a definite need of a State Antiquities Act.

DR. LARRY LAHREN, archaeologist, said this would provide a very important resource in terms of archeology. He said he couldn't see anything in it that would cause bureaucrats problems.

WILLIAM MELTON, Curator of the University of Montana, spoke in favor of the bill.

LYNN E. OLUND, archaeologist from Mineral Research Center, Butte, spoke in favor of the bill and a copy of her testimony is exhibit 30.

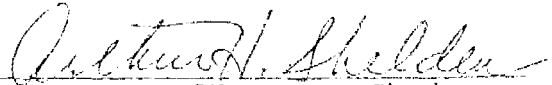
JEAN BOEY, Anaconda, spoke in support. She said through this individual property owners get federal funding and tax breaks for recycling existing historic buildings. She said a lot of our buildings that should have been saved have gone down the drain because they did not receive this help.

Rep. Dussault said Mr. James Hughes of Mountain Bell had a suggested amendment and a copy of this is exhibit 31.

Also signing as favoring the bill was Jack Boley of Anaconda, Patti Bell of Helena and Diane Vanke, Montana Highway Department.

Meeting adjourned at 2:45 p.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

Emelia A. Satre, Sec.

HOUSE JOINT RESOLUTION 45

Rep. Cooney moved do pass. The motion carried unanimously with those present (same absent).

HOUSE JOINT RESOLUTION 36

Rep. Huennekens moved do pass. He suggested an amendment to have the line go to Fort Peck instead of Fort Benton. This suggestion carried unanimously with those present. It was agreed if the bill passed this amendment would be added on the floor. Mr. Gordon McGowan, Montana Railroad Association, was asked for some information. He said the amount of money it would take to get the barge in operation is the amount of money it would take to keep the Milwaukee Railroad operating. He said if we really wanted to do something worthwhile perhaps we could give an honorary degree to the people employed on the Milwaukee--make them honorary skippers. He said if we can get something to move grain with he couldn't object.

Rep. Huennekens motion of do pass carried with 9 yes, 8 no (Bertelsen, Cooney, Fagg, Harper, Keedy, McBride, Metcalf, Sheldon) and the same absent.

HOUSE JOINT RESOLUTION 30

Rep. Cooney moved do pass. Rep. Keedy moved a substitute motion of do not pass. A roll call vote was taken and the motion of do not pass carried with 10 for and 8 opposed (Cooney, Harper, Huennekens, Kessler, McBride, Metcalf, Quilici [left a proxy vote]), and Rep. Scully, absent.

HOUSE BILL 823

Rep. Fagg discussed and proposed amendments which are exhibit 2 of the minutes. He then moved the bill do pass and the amendments outlined be added on the floor. This motion carried with 14 yes, 4 no (Bertelsen, Burnett, Cooney, Curtiss and 1 absent (Scully)). Reps. Curtiss and Quilici had left proxy votes on this bill.

HOUSE BILL 759

The suggested amendments (exhibit 3) were discussed. Rep. Iverson commented that it is the same principle as a reclamation bond and he didn't see what the difference was. Rep. Bertelsen moved the approval of these amendments and then add them on the floor because of lack of time. This motion carried unanimously with those present. Rep. Cooney moved the bill do pass and this motion carried with Rep. Thoft voting no and Rep. Scully absent. Proxy votes were left by Reps. Curtiss and Quilici.

HOUSE BILL 785

Rep. Fagg moved do pass. The motion carried unanimously with those present. It was mentioned this bill would need a statement of intent and Debbie Schmidt was requested to write it and a copy of it is exhibit 4.

HOUSE BILL 2

Rep. Keedy moved do pass. Rep. Huennekens suggested some amendments (exhibit 5) and the committee agreed to accept them (Reps. Wathe, Iverson, Burnett voted no).

46th

LEGISLATIVE SESSION

COMMITTEE ON Natural Resources

House BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
		3/12/79							
694	2/28/79	3/14/79	3/14/79						3/14/79
716	2/28/79	3/14/79 3/19/79	3/19/79					3/19/79	
717	2/23/79	3/9/79 3/16/79	3/16/79					3/16/79	
733	2/23/79	3/5, 3/16 3/19, 3/22	3/22/79 tabled						
739	2/20/79	3/2/79	3/2/79				3/2/79		
742	2/23/79	3/7, 3/14 3/19/79	3/19/79						as amended 3/19/79
759	2/23/79	3/9/79 3/14/79	3/14/79					3/14/79	
785	2/28/79	3/7/79 3/12/79	3/12/79					3/12/79	
816	2/23/79	3/7/79 3/12/79	3/12/79						3/12/79
842	2/23/79	3/12/79 3/14/79	3/14/79					3/14/79	
883	2/28/79	3/14/79 3/21/79	3/21/79					3/21/79	

(Use Separate Sheet for Senate, House Bills, and Resolutions)

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Jack Heyneman of Fishtail, Montana, a Red Angus producer representing the Stillwater Protective Association, read a prepared statement to the committee in opposition to HB 684. (Exhibit 2)

Mary Donohoe, a Nye rancher and a member of the Stillwater County Planning Board, read a prepared statement to the committee in opposition to HB 684. (Exhibit 3)

The next opponent was Willa Hall, representing the Montana League of Women Voters, who read a prepared statement. (Exhibit 3A)

Charles Van Hook, representing the Environmental Information Center, was the next opponent to testify. He read a prepared statement to the committee. (Exhibit 4)

Jeff Renz of Missoula, appearing as an opponent to this bill, said that it appears to be unconstitutional and that there is a problem with the road provision. This provision could mean a lot more roads, if non-contiguous by adjacent mines, would not have to be reclaimed.

Steve Loken of Libby, a former Forest Service hydrologist, opposed HB 684.

Don Snow of Stevensville opposed the bill saying that this bill comes at a time when mining people recognize the need for sound regulations on mining and roads. He asked that he be allowed to submit written testimony later. This was allowed by the Chairman. However, Mr. Snow never submitted a testimony.

Leo Berry, Commissioner of State Lands, presented a prepared statement to the committee to clarify the Department of Lands' position in which some amendments for HB 684 were suggested. He also stated that this bill would require additional appropriations and one additional employee. (Exhibit 5)

At this time, Rep. Hand was allowed to close on HB 684. In reply to a question of Senator Thiessen about a severability clause, he said he would have no objection to the bill being amended to include one. In closing, he said that Montana's constitution does require the reclamation of lands.

CONSIDERATION OF HOUSE BILL 785: Rep. Ann Mary Dussault of Missoula, District 95, sponsor of this bill, explained it to the committee, stating that this bill is a revision of the Montana Antiquities law. She also said that it was an outgrowth of an interim committee study, but not sponsored by the committee, as she had decided to sponsor it after working with others after the completion of the interim committee study. She said that HB 785 had passed the House easily and after that

a number of groups wanted to amend it. At this time, she presented proposed amendments to HB 785 to the committee. (Exhibit 1)

The first proponent to testify for the bill was James Spangelo, a Havre attorney, who appeared for himself as a third generation Montanan to ask that this bill be passed in order to clarify what is a historical site and where.

The next proponent was Mick Hager, Director of the Museum of the Rockies at Bozeman, Montana, who said that Montana is truly one of the vertebrate fossil sites in this area of the country. He further stated that this bill would preserve specimens from distinction and make possible the interpretation and display of fossil sites in Montana. He urged support of the bill as it now reads.

Fred Quivik, representing the Butte Historical Society, was the next proponent to testify. He said that this bill was important to the Butte community because they are actively seeking to increase its economical base and this would enable them to preserve some of the landmark district and the beautiful old homes in the residential areas.

Jack Boley of Anaconda, appearing as a proponent, said that he thinks this bill would be very helpful with locating organizations and individuals who would be interested in taking advantage of moneys available to preserve old landmarks.

Frank R. Grant, Director of the Fort Missoula Historical Museum at Missoula, spoke briefly in support of HB 785.

Alan S. Newell of Missoula, representing the Historical Research Assn., spoke briefly in support of HB 785 and presented written testimony to the committee. (Exhibit 2)

Janet Eisner Cornish of Butte, representing the Montana Small Business Assn. - Butte Chapter, read a prepared statement to the committee. (Exhibit 3)

The next proponent was Lester B. Davis, Professor of Anthropology at Montana State University, who spoke briefly in support of the bill.

Lynn Fredlund of Butte, representing the Mineral Research Center at Butte, told the committee she supports HB 785 because as an archaeologist working on cultural resource projects in Montana since 1973, she has had problems with who is the authority for archaeological problems. Federal, state and private contractor organizations have been held up and much time, which equals money, has been spent dealing

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with a variety of agencies. This bill will centralize the files and the authority, thus making their job much easier.

C. Adrian Heidenreich, Professor of Native American Studies at Eastern Montana College, told the committee that he thinks Montana needs this legislation on a national as well as a statewide level.

J. D. Holmes, representing the Montana Institution of the Arts Foundation, said that they support the bill with amendments.

Ken Korte of Helena, representing the Montana Historical Society as Preservation Officer, said that HB 785 is very timely and much needed because it will help to solve many of their problems. He further stated that Rep. Ann Mary Dussault has worked with the society on this bill.

The next proponent to testify was Shelly Thompson of Helena, representing the Montana Mining Assn., who told the committee that the association supports HB 785 as amended and urges a DO PASS.

Jim Mockler of Helena, representing the Montana Coal Council, said that they have no objection to HB 785 with the amendments, but without them it is a mess.

Pete Larson of Rapid City, South Dakota, representing the Black Hills Institute, told the committee that he withdrew their objections to the bill and supports it with amendments.

Sister JoAnn Daily also stated that the Montana Arts Advocacy supports HB 785 with amendments.

Mrs. Jean Boley of Anaconda, Montana, said that she supports this bill with amendments.

At this time, there was a brief question and answer period, and the Chairman asked Rep. Dussault and her aides to return to the Friday meeting of this committee to complete the testimony on HB 785. They agreed to return for completion of the bill.

Chairman Roskie asked the committee members if they should hold over the hearing of HJR 6 for the meeting on Friday, and this was agreed to by those members present.

There being no further business at this time, the committee adjourned at 3:25 p.m..


SENATOR GEORGE F. ROSKIE, Chairman

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman			
DOVER, Harold L., Vice-Chairman	✓		
BROWN, Steve	✓		
ETCHART, Mark	✓		
JERGESON, Greg	✓		
LOCKREM, Lloyd C., Jr.	✓		
LOWE, William R.	✓		
MANLEY, John E.	✓		
STORY, Pete	✓		
THIESSEN, Cornie R.	✓		

Each Day Attach to Minutes.

Proposed Amendments to HB 638 725

Page 3, line 25.

Following: "means"

Strike: "scientifically significant"

Page 4, line 2.

Following: "water"

Insert: "which are rare and critical to scientific research"

Page 6, line 13.

Following: "not"

Strike: "administered, controlled, or"

Page 6, line 22.

Following: "lands"

Strike: "administered, controlled, or"

Page 7, line 16.

Following: "lands"

Strike: "administered, controlled, or"

Page 11, line 2.

Following: "land"

Strike: "administered, controlled, or"

Page 6, line 11.

Following: "submit"

Insert: "to the historic preservation officer for his consideration"

Page 6, lines 17 through 21.

Following: "register"

Insert: "."

Strike: "and may registered properties."

Page 6, line 7.

Following: line 6

Insert: A new subsection to read as follows: "enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties."

Reletter: Subsequent subsections.

Page 7, line 9.

Following: "hearing."

Insert: "If a hearing is held, it shall be commenced within 30 days after the final date for submission of written objections."

Page 10, line 23.

Following: "PALEONTOLOGICAL REMAINS"

Insert: "that cannot be properly mitigated provided that this section is limited only to heritage properties and paleontological remains which have been located as a part of the environmental impact statement review process as described in subsections 1 and 2 of section 10."

Proposed Amendments to HB 638
page two

Page 12, lines 3 and 7.
Following: "[sections"
Strike: "3 through 14]"
Insert: "8, 12, 13, 14"

Page 11, line 11.
Following: line 10
Strike: Section 13 in its entirety
Renumber: Subsequent sections.

A STATEMENT IN SUPPORT OF HB 785,
"AN ACT TO REVISE THE LAWS RELATED TO ANTIQUITIES"

Presented by
Historical Research Associates
P.O. Box 7086
Missoula, Montana 59807

Recognition of heritage resources (historical, archeological, architectural, paleontological) has a long history in national policy. As early as 1906, the United States Congress passed the Antiquities Act which assigned special value to the nation's cultural resources. Subsequent acts in 1935 and 1960 aided the movement to appreciate and to protect the nation's heritage. This national effort culminated with passage of the National Historic Preservation Act in 1966 and National Environmental Policy Act in 1969.

Montana also has emphasized the need to preserve our national and state history. Enactment of the Montana Environmental Policy Act in 1971, and the Montana Antiquities Act in 1973, evidenced our state's commitment to retaining the Montana legacy. Unfortunately, until recently, the Montana effort has been hindered by a lack of direction and an absence of professional staff. We now have the latter and seek the former.

Passage of HB 785 is consistent with previous state and national policy. It will allow the state's heritage preservation staff to give guidance and direction to the overall state program. It also will bring the state into compliance with federal policy and legislation.

Specifically, HB 785 will clearly define the role and responsibility of the State Historic Preservation Officer. It will require that that official and his staff work with various state agencies to develop criteria and guidelines for assessing impact on cultural resources. As individuals who have worked in this sphere for a number of years, we can attest to the need for such direction. Assistance in developing criteria for evaluating cultural resources and a review policy for impact statements will not only improve the quality of that review process, but will save the state and private industry needless expense.

HB 785 also would require the state preservation staff to collect and to preserve information on cultural resources. The staff will develop a central system for site forms and registration. Such a system is sorely needed in this state. Again, this action would enhance the quality of resource assessment, while lowering the cost of environmental evaluations to industry and to the state.

It is important to Montana's citizens that state policy and direction be in step with that of the federal government. Montana has moved in an admirable direction by enacting laws to protect the state's heritage and by providing professional staff to assist in that effort. It is time now to strengthen that commitment.

We strongly urge this committee to endorse HB 785.

James E. Larned
321 1/2 N. Alabama
Butte, MT. 59701

4/7/79
re: HB Small Business Assoc. (MSBA) By

The MSBA is a grass roots organization which has as its goal a diversified state economy which recognizes the need and value of small business. In Butte the viability of small business is very much tied to historic renovation and rehabilitation. A successful central business district renovation project ~~being on~~ would be in the best interest of both existing and new small business.

HB 785 provides the State Hi. Pers. Office & the Preservation Review Board with the guidelines to administer much needed programs including the certification of historic property for tax incentive, nominations to the Federal Register & Federal Grant programs. All of these programs would aid in the rehabilitation of Butte's ~~historic~~ Central Business District, recognizing its historic resource value to the State & the benefit to small business which seeks to establish itself in Uptown Butte.

Montana has a wonderful resource in its heritage. I am attaching to this testimony various sections of Federal law which address this issue in terms of its importance to our nation. I hope the Montana legislature will recognize this importance ~~of this issue~~ & urge a co-funding recommendation for HB 785.

Historic Preservation Act of 1966 (Nat'l)

"Congress finds and declares-

- (a) That the spirit and direction of the Nation are founded upon and reflected in its historic past.
- (b) That the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people
- (c) That in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present government and nongovernment historic pres. programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation...

Section 106: The head of any Federal Agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Fed. department or independent agency having authority to license any undertaking shall prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register." ~~§§§§§§§§-of-such-Federal-agency-shall~~

Executive Order May 15, 1971: Protection and Enhancement of the Cultural Environment:

"...In the furtherance of the purposes and policies of the National Environmental Policy Act of 1969...the National Historic Pres. Act of 1966...the Historic Sites Act of 1935...and the Antiquities Act of 1906...The Federal Govern't shall provide leadership in preserving, restoring and maintaining the historic and cultural enviro. of the Nation...(and) institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of (Federally) and non-federally owned sites, structures and objects of historical, architectural or archaeological significance."

National Register of Historic Places:

(National Park Service, Dept. Interior)

(Section 60.5) "(b) The SHPO is responsible for the development and implementation of a comprehensive state historic pres. plan, based clearly on the State's history and established in conformance with local, State, and Federal legislation and mechanisms, and approved by the Secretary of the Interior. The SHPO supervises a prof. staff in conducting a statewide survey of historic resources addressed to every aspect of the State's history....

(c) The SHPO has been requested to assume certain responsibilities for compliance under section 106 of the National His. Pres. Act (of 1966)..."

House Bill 785 demonstrates that we recognize the resources in the state that have historical, architectural and archeological value.

Without the mention of our responsibility as citizens of Montana to protect this resource there is no comprehensive policy of historic sites management.

Just as the Fed. govern't has formally stated its concerns for historic preservation, we in Montana must do the same.

NAME: ⁵⁶¹⁰ JAMES W SPANGLER DATE: 3/7/79

ADDRESS: P.O. BOX 1751, HAWAII 96711

PHONE: 205-4321

REPRESENTING WHOM? SGT

APPEARING ON WHICH PROPOSAL: H.B. 785

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS:

CLARIFIES NOMINATING PROCEDURE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: FREDERICK L. QUINN DATE: 3-7-79

ADDRESS: 210 N. CLARK BUTTE

PHONE: 792-5464

REPRESENTING WHOM? BUTTE HIST. SOCIETY

APPEARING ON WHICH PROPOSAL: HRS 755

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Jack Foley

DATE:

3/4/79

ADDRESS:

Alameda

PHONE:

563-3477

REPRESENTING WHOM?

Copper Village Art & Craft Museum

APPEARING ON WHICH PROPOSAL:

HB 751

DO YOU:

SUPPORT?



AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Frank R Grant

DATE:

3-7-79

ADDRESS:

544 Hastings Miranda

PHONE:

549-2468

REPRESENTING WHOM?

Fort Miranda Historical Museum

APPEARING ON WHICH PROPOSAL:

HB 785

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: MICK HAGER DATE: 3/7/77

ADDRESS: 25 Faculty Crt, Bozeman, MT

PHONE: 586-1615

REPRESENTING WHOM? Museum of the Rockies

APPEARING ON WHICH PROPOSAL: HB 785

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: J. H. B. Powell DATE: April 7, 1968

DATE: 12/15/54

ADDRESS: P.O. Box 7076 22216 116

PHONE: 721-1958

REPRESENTING WHOM? Historical Board of Name

APPEARING ON WHICH PROPOSAL: HR 225

DO YOU: SUPPORT? X AMEND? OPPOSE?

SUPPORT? ☒

AMEND?

OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Trent Brown

DATE:

3/7/79

ADDRESS:

321 E. 1st St. - Suite 101

PHONE:

723-7457

REPRESENTING WHOM?

Small Business
B. H. - Federal Sec.

APPEARING ON WHICH PROPOSAL:

4B 71

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LYNN FREDLUND DATE: 7 MAR 79

ADDRESS: P.O. Box 3708 - Butte

PHONE: 494 - 2778

REPRESENTING WHOM? Mineral Research Center - Butte

APPEARING ON WHICH PROPOSAL: HB 785

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Support HB 785 because as an
archaeologist working on cultural resource
projects in Montana since 1973 we
have had problems with who is
the authority for archaeological problems.
Our excavations (Federal, state & private)
organizations have been held up
& much time (= money) has been spent
dealing with a variety of agencies. This
bill centralizes the files & centralizes
the authority thus making our job
much easier.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Ken Kort

DATE:

3/2/79

ADDRESS:

Helena

PHONE:

REPRESENTING WHOM?

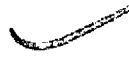
Mandana Hist. Society

APPEARING ON WHICH PROPOSAL:

413 205.

DO YOU:

SUPPORT?



AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Shirley Thomas DATE: 3-1-79

ADDRESS: 215 W. 1st

PHONE: 443 7297

REPRESENTING WHOM? Montana Minority Assoc.

APPEARING ON WHICH PROPOSAL: H.R. 193

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: The Montana Minority Assoc. supports HR
193 as amended and adds a D. PRS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Don Miller

DATE:

3/2/64

ADDRESS:

2301 Colburn Dr.

PHONE:

442-6523

REPRESENTING WHOM?

Met. Fed. Council

APPEARING ON WHICH PROPOSAL:

H.B. 785

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

With amendments as has
no objection to 785 without
them it is a mess.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Edward E. Schottler DATE: 3/6/77

ADDRESS: Minneapolis

PHONE: 843-5314

REPRESENTING WHOM? Re D Minors

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: 785

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BILL

VISITORS' REGISTER

DATE _____

Please note bill no.

(check one)
SUPPORT / OF

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

COMMITTEE

DATE _____

(check one)

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

COMMITTEE

VISITORS' REGISTER

DATE _____

(check one)

OF

REPRESENTING

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

2012.12.12

11/11/11

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

March 12, 1979

The twenty-fourth meeting of the Natural Resources Committee was called to order by Senator George F. Roskie, Chairman, at 12:00 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present with the exception of Senators Lockrem, Manley, and Thiessen.

Mr. Jim Lear, Staff Attorney from the Legislative Council, was also present.

DISPOSITION OF HB 785: Chairman Roskie called the Committee's attention to their copy of the proposed amendments for HB 785. Senator Dover moved that the proposed amendments be adopted. The motion carried unanimously with those present.

Senator Story proposed some further amendments to HB 785 which he felt were necessary to make it clear that the bill does not restrict a landowner's use of his own land. He said he also felt that section 16 was unnecessary.

Senator Manley arrived at this time.

There was some discussion on Senator Story's proposed amendments and whether or not they were necessary. Senator Story then moved the adoption of his proposed amendments and Senator Dover seconded the motion. Senator Jergeson asked for a division on the motion to exclude the deletion of section 16 from the motion. Chairman Roskie called for the vote on the first amendments proposed. The motion carried unanimously. Senator Story then moved that section 16 be deleted. Chairman Roskie called for the vote. All those present voted in favor of the motion with the exception of Senator Jergeson.

Senator Jergeson then moved that HB 785 BE CONCURRED IN As Amended. There was further discussion on HB 785 and concern was expressed about whether or not the landowner was adequately protected.

Senator Etchart moved that HB 785 be amended by inserting "with consent of the owner" on page 4, line 15. There was further discussion and the Committee agreed that would be the wrong location for such an amendment. Senator Etchart made a substitute motion that HB 785 be amended on Page 6, line 16 by striking "notification" following "written" and inserting "approval" and by striking "to" following "by" and inserting "by". Chairman Roskie then called for the vote on Senator Etchart's motion and all those present voted in favor of the motion with the exception of Senators Brown and Jergeson.

Chairman Roskie then called for the vote on Senator Jergeson's motion that HB 785 BE CONCURRED IN as Amended. All those present voted in favor of the motion with the exception of Senator Manley.

DISPOSITION OF HB 816: Senator Story moved that HB 816 BE NOT CONCURRED IN and Senator Dover seconded the motion. There was some discussion about whether or not HB 816 was similar to SB 105. Chairman Roskie then called for the vote and all those present voted in favor of the motion with the exception of Senators Brown and Jergeson.

DISPOSITION OF HB 684: Senator Manley moved that HB 684 BE CONCURRED IN.

Senator Jergeson pointed out the deletion made on page 4, line 18 and reminded the Committee that Senator Manley had worked to have the 36,500 tons put into the law. There was some discussion about the effect of having that line removed. Representative Hand arrived and he explained the purpose in having "who does not remove from the earth during any calendar year material in excess of 36,500 tons in the aggregate" removed. Chairman Roskie then called on Jim Lear to give his opinion of the effect of the bill. Senator Dover asked Representative Hand if he felt putting those lines back in the bill would hurt his bill. Representative Hand said he felt it would. Jim Mockler, Montana Coal Council, also addressed the concerns expressed by the Committee.

Chairman Roskie then called for the vote on Senator Manley's motion. All those present voted in favor of the motion with the exception of Senators Jergeson and Brown.

Chairman Roskie concluded the executive session and recessed briefly before beginning the hearings.

ROLL CALL: Upon roll call all members were present with the exception of Senators Lockrem and Thiessen. Senator Thiessen arrived shortly after the meeting began.

Mr. Jim Lear, Staff Attorney from the Legislative Council, was also present. See attached visitors' register for the names of visitors present.

CONSIDERATION OF HB 555: "An act to prohibit the Department of Natural Resources and Conservation from constructing, operating, and maintaining water projects for the development of power; amending section 85-1-102, MCA."

Chairman Roskie called on Representative Bill Hand, District 82, to present HB 555 to the Committee. Representative Hand said that HB 555 was intended to prohibit the State of Montana from

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman	1		
DOVER, Harold L., Vice-Chairman	1		
BROWN, Steve	1		
ETCHART, Mark	1		
JERGESON, Greg	1		
LOCKREM, Lloyd C., Jr.		1	
LOWE, William R.	1		
MANLEY, John E.	1		
STORY, Pete	1		
THIESSEN, Cornie R.	1		1

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

March 13, 1972

MR. President

We, your committee on Natural Resources

having had under consideration House Bill No. 795

Dussault (Story)

Respectfully report as follows: That House Bill No. 795, third reading bill, be amended as follows:

1. Page 3, line 11.

Following: line 10

Strike: "16"

Insert: "14"

2. Page 3, line 25 and page 4, line 1.

Following: "means" on line 25 of page 3

Strike: "scientifically significant"

3. Page 4, line 2.

Following: "water"

Insert: "which are rare and critical to scientific research"

554932

(Continued)

4. Page 6, line 7.

Following: "(b)"

Insert: "enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties; (i)"

5. Page 6, line 9.

Following: "through"

Strike: "16"

Insert: "14"

6. Page 6, line 11.

Following: "submit"

Insert: "to the historic preservation officer for his consideration"

7. Page 6, line 13.

Following: "not"

Strike: "administered, controlled, or"

8. Page 6, line 15.

Following: "written"

Strike: "notification"

Insert: "approval"

Following: "by"

Strike: "TO"

Insert: "By"

9. Page 6, lines 17 through 21.

Following: "register" on line 17

Insert: "."

Strike: remainder of line 17 through line 21

10. Page 6, line 22.

Following: "lands"

Strike: "administered, controlled, or"

11. Page 7, line 9.

Following: "hearing."

Insert: "If a hearing is held, it shall be commenced within 30 days after the final date for submission of written objections."

12. Page 7, line 16.

Following: "lands"

Strike: "administered, controlled, or"

(Continued)

13. Page 9, line 4.

Following: "remains"

Insert: "on lands owned by the state"

14. Page 9, line 7.

Following: "remains"

Insert: "on lands owned by the state"

15. Page 9, line 11.

Following: "remains"

Insert: "on lands owned by the state"

16. Page 9, line 23.

Following: "remains"

Insert: "on lands owned by the state"

17. Page 10, line 16.

Following: "approval"

Insert: "for use of land owned by the state"

18. Page 10, line 23.

Following: "REMAINS"

Insert: "that cannot be properly mitigated provided that this section is limited only to heritage properties and paleontological remains which have been located as a part of the environmental impact statement reviews process as described in [section 16]"

19. Page 11, line 2.

Following: "lands"

Strike: "administered, controlled, or"

20. Page 11, line 6.

Following: "remains"

Insert: "on any lands owned by the state"

21. Page 11, line 11.

Following: line 10

Strike: Section 13 in its entirety

Re-number: subsequent sections

22. Page 12, lines 1, 3, and 7.

Following: "sections"

Strike: "3 through 14"

Insert: "6, 12, and 13"

23. Page 12, lines 9 through 13.

Following: line 8

Strike: Section 16 in its entirety

Re-number: subsequent sections

And, as so amended, BE CONCURRED IN

HOUSE BILL NO. 785

INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS 22-3-401 THROUGH 22-3-413, MCA."

WHEREAS, Article IX, section 4, of the Montana constitution requires that the legislature provide for the identification, acquisition, restoration, enhancement, preservation, and administration of historic, archeologic, scientific, and cultural areas, sites, records, and objects and for their use and enjoyment by the people; and

WHEREAS, rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of Montana's rich heritage; and

WHEREAS, it is in the interest of all Montanans that state government provide leadership in historic preservation for the general education, inspiration, pleasure, and enrichment of the people.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Preservation review board. (1) There is a
2 preservation review board within the Montana Historical
3 Society consisting of nine members.

4 (2) Members shall be appointed by the governor in the
5 following manner:

6 (a) five professional persons recognized in the fields
7 of archeology, history, architecture, or architectural
8 history; however, no more than two members may be appointed
9 from any one of these fields;

10 (b) a professional paleontologist;

11 (c) the state liaison officer for the federal land and
12 water conservation fund;

13 (d) two members of the public who have actively
14 demonstrated an interest in historic preservation matters.

15 (3) Each member shall serve a 4-year term. A member
16 may be reappointed.

17 Section 2. Transition period -- appointment of
18 preservation review board members. (1) For the purpose of
19 providing staggered terms, the initial terms of preservation
20 review board members shall be as follows:

21 (a) two members appointed for a 1-year term;

22 (b) two members appointed for 2-year terms;

23 (c) two members appointed for 3-year terms; and

24 (d) three members appointed for 4-year terms.

25 (2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
3 Unless he is a full-time salaried officer or employee of
4 this state or of a political subdivision, each member is
5 entitled to be paid \$25 a day for each day in which he is
6 actually and necessarily engaged in board duties and to
7 reimbursement for travel expenses as provided for in
8 2-18-501 through 2-18-503, incurred in the performance of
9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
11 16], unless the context clearly indicates otherwise, the
12 following definitions apply:

13 (1) "Antiquities permit" means the permit granted for
14 exploration or field investigations of heritage properties
15 or paleontological remains provided for in [section 3].

16 (2) "Heritage property" means any district, site,
17 building, structure, or object located upon or beneath the
18 earth or under water that is significant in American
19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
21 within the Montana historical society provided for in
22 [section 6].

23 (4) "Historic preservation officer" means the officer
24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
2 nature found upon or beneath the earth or under water WHICH
3 ARE RARE AND CRITICAL TO SCIENTIFIC RESEARCH.

4 (6) "Preservation review board" means the board
5 provided for in [section 1].

6 (7) "Register" means the National Register of Historic
7 Places, the official list of the nation's heritage
8 properties worthy of preservation because of national,
9 state, or local significance.

10 (8) "Registered property" means any heritage property
11 listed in the register.

12 (9) "State agency" means any executive agency of the
13 state of Montana.

14 Section 5. Preservation review board -- duties. The
15 preservation review board shall:

16 (1) recommend nominations to the register;

17 (2) approve or disapprove all nominations to the
18 register;

19 (3) approve or disapprove additions to statewide
20 inventories of heritage properties;

21 (4) review the annual work program that recommends
22 preservation goals and grant allocations for the next
23 succeeding fiscal year; and

24 (5) act in an advisory capacity to the historic
25 preservation office and to state agencies.

1 Section 6. Historic preservation office -- duties of
2 historic preservation officer. (1) There is established the
3 historic preservation office within the Montana Historical
4 Society to consist of an historic preservation officer and a
5 qualified professional staff.

6 (2) The historic preservation officer is appointed by
7 the governor.

8 (3) The historic preservation officer has the
9 following duties and responsibilities:

10 (a) follow necessary procedures to qualify the state
11 for money that is now or will be made available under any
12 act of congress of the United States or otherwise for
13 purposes of historic preservation;

14 (b) conduct an ongoing statewide survey to identify
15 and document heritage properties and paleontological
16 remains;

17 (c) maintain a state inventory file of heritage
18 properties and paleontological remains and maintain a
19 repository for all such inventory work done in the state;

20 (d) evaluate and formally nominate potential register
21 properties according to the criteria established by the
22 register;

23 (e) prepare and annually review the state preservation
24 plan, register nominations, and historic preservation grant
25 activity;

(f) maintain, publish, and disseminate information relating to heritage properties and paleontological remains in the state;

(g) cooperate with and assist local, state, and federal government agencies in comprehensive planning that allows for the preservation of heritage properties and paleontological remains;

~~(h) enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties.~~

~~(h)(1)~~ any other necessary or appropriate activity permitted by law to carry out and enforce the provisions of [sections 3 through 16].

Section 7. Registration of heritage properties. (1) Any citizen of Montana may submit to the historic preservation officer for his consideration the necessary forms to nominate heritage properties to the register.

(2) For properties not administered, controlled, or owned by the state, the historic preservation officer may, upon approval by the preservation review board and after written ^{notification} ~~notification by~~ the landowner, nominate heritage properties to the register, ~~and may enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the~~

1 owners--of--objects-to-ensure-preservation-and-protection-of
2 registered-properties.

3 (3) For lands administered--controlled--or owned by
4 the state, the historic preservation officer may, upon
5 approval by the preservation review board, nominate heritage
6 properties to the register. The historic preservation
7 officer shall notify the appropriate state agency and give
8 public notice when any property is being considered for
9 nomination. Unless state agency or public objections are
10 submitted in writing within 30 days after notification, the
11 historic preservation officer shall complete the
12 nominations. When a state agency or any citizen of Montana
13 submits written objections, the historic preservation
14 officer shall consider the objections and may conduct a
15 public hearing. IF A HEARING IS HELD, IT SHALL BE COMMENCED
16 WITHIN 30 DAYS AFTER THE FINAL DATE FOR SUBMISSION OF
17 WRITTEN OBJECTIONS. Within 60 days after submission of the
18 objections or after the public hearing, the historic
19 preservation officer shall make a final decision on the
20 proposed registration and prepare a statement responsive to
21 the objections submitted.

22 Section 8. Issuance of permits. (1) No person may
23 excavate, remove, or restore any heritage property or
24 paleontological remains on lands administered--controlled--
25 or owned by the state without first obtaining an antiquities

1 permit from the historic preservation officer.

2 (2) Antiquities permits are to be granted only after
3 careful consideration of the application for a permit and
4 after consultation with the appropriate state agency.
5 Permits are subject to strict compliance with the following
6 guidelines:

7 (a) Antiquities permits may be granted only for work
8 to be undertaken by reputable museums, universities,
9 colleges, or other historical, scientific, or educational
10 institutions, societies, or persons with a view toward
11 dissemination of knowledge about cultural properties,
12 provided no such permit may be granted unless the historic
13 preservation officer is satisfied that the applicant
14 possesses the necessary qualifications to guarantee the
15 proper excavation of those sites and objects that may add
16 substantially to man's knowledge about Montana and its
17 antiquities.

18 (b) The antiquities permit must specify that a summary
19 report of such investigations, containing relevant maps,
20 documents, drawings, and photographs, be submitted to the
21 historic preservation officer. The historic preservation
22 officer shall determine the appropriate time period
23 allowable between all work undertaken and submission of the
24 summary report.

25 (3) All heritage property and paleontological remains

collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

Section 9. State agency participation. State agencies shall:

(1) adopt policies for the preservation of heritage properties and paleontological remains, and avoid, whenever feasible, state actions, or state assisted or licensed actions that substantially alter heritage properties or paleontological remains;

(2) identify and develop, in consultation with the historic preservation officer, methods and procedures to ensure that the identification and protection of heritage properties and paleontological remains *as identified and protected by the* is given appropriate consideration in state agency decisionmaking;

(3) deposit in the historic preservation office all inventory reports, including maps, photographs, and site forms, of heritage properties and paleontological remains.

Section 10. Environmental review process. (1) Each state agency responsible for the preparation of an

environmental impact statement in accordance with the Montana Environmental Policy Act shall, as a part of its evaluation and study process, consult with and obtain the comments of the historic preservation officer concerning the identification and location of heritage properties and paleontological remains, that may be adversely impacted by the proposed action. PROVIDED, HOWEVER, THAT WHERE THE GRANT OF AN INTEREST IN STATE LAND REQUIRES THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT UNDER THE MONTANA ENVIRONMENTAL POLICY ACT, THE ENVIRONMENTAL IMPACT STATEMENT SHALL BE LIMITED TO AN EVALUATION OF THE HERITAGE PROPERTIES AND PALEONTOLOGICAL REMAINS LOCATED IN, ON, UNDER AND WITHIN ONLY THE AFFECTED STATE LAND.

(2) When heritage properties and paleontological remains are located and identified as described in subsection (1), the responsible state agency, in consultation with the historic preservation officer and the preservation review board, shall include as part of its environmental impact statement a plan for the avoidance or mitigation of damage to heritage properties and paleontological remains to the greatest extent practicable. Whenever necessary or appropriate, the state agency may require an applicant for a lease, permit, license, or other approval to develop an avoidance or mitigation plan in consultation with the historic preservation officer and the

1 preservation review board.

2 Section 11. Denial of applications. State agencies may
3 deny or approve with conditions any application for an
4 easement, lease, permit, contract, license, or certificate
5 in order to protect registered HERITAGE properties AND
6 PALEONTOLOGICAL REMAINS THAT CANNOT BE PROPERLY MITIGATED
7 PROVIDED THAT THIS SECTION IS LIMITED ONLY TO HERITAGE
8 PROPERTIES AND PALEONTOLOGICAL REMAINS WHICH HAVE BEEN
9 LOCATED AS A PART OF THE ENVIRONMENTAL IMPACT STATEMENT
10 REVIEW PROCESS AS DESCRIBED IN SUBSECTIONS (1) AND (2) OF
11 SECTION 10.

12 Section 12. Report of discovered heritage properties
13 or paleontological remains. Any person conducting
14 activities, including survey, excavation, or construction,
15 who discovers on any lands administered, controlled, or
16 owned by the state any heritage property or paleontological
17 remains as defined in [section 4] or who finds that an
18 operation licensed or otherwise entitled by the state may
19 damage heritage properties or paleontological remains, shall
20 promptly report to the historic preservation officer the
21 discovery of such findings and shall take all reasonable
22 steps to ensure preservation of the heritage property or
23 paleontological remains.

24 Section 13. Injury, damage, or removal of heritage
25 property and paleontological remains. No person may

1 knowingly--or--purposely--injure--damage--or--remove--any
 2 heritage-property-or-paleontological-remains-on-private-land
 3 without--written--consent--of--the--owner--or--on--lands
 4 administered--controlled--or--owned-by-the-state--without-a
 5 permit-pursuant-to-[section-8].

6 Section 13. Reproduction or sale of heritage property
 7 and paleontological remains. (1) No person may reproduce or
 8 falsely identify any heritage property or paleontological
 9 remains with the intent to sell the property or remains as
 10 an original.

11 (2) No person may sell any heritage property or
 12 paleontological remains with the knowledge that the property
 13 or remains have previously been collected or excavated in
 14 violation of [sections ⁸ ¹² through 14].

15 Section 14. Violation a misdemeanor -- penalty. A
 16 person violating any provision of [sections 3-through-14 8,
 17 12, 13, AND 14] is guilty of a misdemeanor and upon
 18 conviction shall be fined not more than \$1,000 or be
 19 imprisoned in the county jail for not more than 6 months, or
 20 both. Each day of continued violation of any provision of
 21 [sections 3--through--14 8, 12, 13, AND 14] constitutes a
 22 distinct and separate offense.

23 [Section 15. Judicial remedy. The policies, duties, and
 24 procedures of [sections 3 through 14] are enforceable by any
 25 party on application to a district court of the state. The

1 court may grant such relief, including injunctive relief, as
2 it determines appropriate. }

3 Section 16. Severability. If a part of this act is
4 invalid, all valid parts that are severable from the invalid
5 part remain in effect. If a part of this act is invalid in
6 one or more of its applications, the part remains in effect
7 in all valid applications that are severable from the
8 invalid applications.

9 Section 17. Repealer. Sections 22-3-401 through
10 22-3-413, MCA, are repealed.

1 STATEMENT OF INTENT RE: HB 785

2
3
4 HB 785 formally establishes the Historic Preservation
5 Office and identifies its duties and responsibilities. This
6 bill is not creating a new office, but simply renames the
7 old one to conform with the accepted title shared by similar
8 offices in states throughout the country. The duties and
9 responsibilities are also the same and are those established
10 by federal rules and regulations for Historic Preservation
11 offices in all states and trust territories. Such duties and
12 responsibilities are necessary for the state to qualify for
13 historic preservation grant monies appropriated by Congress
14 each year.

15 HB 785 requires that the State Historic Preservation
16 Office maintain the required staffing to assure that federal
17 funds will continue to come into Montana. As written, the
18 committee is assured that the State Historic Preservation
19 Office must meet the requirements, even if changes should be
20 made when the legislature is not in session.

21 The proposed bill departs from the current Antiquities
22 Act in the establishment of a Preservation Review Board, in
23 concert with the federal designation.

24 The proposed Review Board will be increased to nine
25 members, of which a majority are professionals trained in

1 fields relating to historic preservation and archaeology.
2 The bill mandates that one member will be the State Liaison
3 Officer for the federal Land and Water Conservation Fund,
4 and although it is not a federal requirement, the inclusion
5 of the Liaison Officer is particularly important in Montana.
6 The Liaison Officer is the Parks Director at the Department
7 of Fish and Game, and since many of the state parks and
8 monuments are established around historic sites,
9 participation of the Liaison Officer on the Review Board is
10 crucial in coordinating efforts in the state.

11 The proposed legislation continues the Antiquities
12 Permit section as exists in the current Antiquities Act, but
13 this bill will clarify provisions for who qualifies for a
14 permit and the permit system is expanded to include all
15 state lands rather than only registered properties.

16 HB 785 will substitute the National Register of
17 Historic Places for the little-known state register as the
18 official listing of important historic or heritage
19 properties. The adoption of the National Register
20 designation will simplify the registering system and avoid
21 needless duplication of efforts.

22 The proposed bill continues the penalties sections but
23 increases protection for private landowners and allows
24 prosecution for violation on private lands.

25 Most importantly, the bill provides for state agency

-2-

HB 785

1 participation in the protection of heritage properties
2 through a coordinated effort with the Historic Preservation
3 Office. Coordination and cooperation is essential in
4 assuring adequate consideration of heritage properties and
5 paleontological remains in the everyday affairs of state
6 government.

7 Section 6 authorizes the historic preservation officer
8 to carry out and enforce the provisions of sections 3
9 through 16. This may be done by rule. Sections 9 through 11
10 require state agencies to participate in this program
11 through development of procedures to include evaluation of
12 heritage properties and paleontological remains in agency
13 decisionmaking. These procedures may be adopted by rule.

14 First adopted by the HOUSE COMMITTEE ON NATURAL
15 RESOURCES on February 20, 1979.

HOUSE BILL NO. 785

INTRODUCED BY DUSSAULT, FASBENDER, SCULLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATED TO ANTIQUITIES; CREATING A PRESERVATION REVIEW BOARD AND AN HISTORIC PRESERVATION OFFICE; PRESCRIBING THE DUTIES OF THE OFFICE AND ITS PRINCIPAL OFFICER; PROVIDING FOR PERMITS; PROVIDING FOR PENALTIES; AND REPEALING SECTIONS 22-3-401 THROUGH 22-3-413, MCA."

WHEREAS, Article IX, section 4, of the Montana constitution requires that the legislature provide for the identification, acquisition, restoration, enhancement, preservation, and administration of historic, archeologic, scientific, and cultural areas, sites, records, and objects and for their use and enjoyment by the people; and

WHEREAS, rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of Montana's rich heritage; and

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(b) a professional paleontologist;

(c) the state liaison officer for the federal land and water conservation fund;

(d) two members of the public who have actively demonstrated an interest in historic preservation matters.

(3) Each member shall serve a 4-year term. A member may be reappointed.

Section 2. Transition period -- appointment of preservation review board members. (1) For the purpose of providing staggered terms, the initial terms of preservation review board members shall be as follows:

(a) two members appointed for a 1-year term;

(b) two members appointed for 2-year terms;

(c) two members appointed for 3-year terms; and

(d) three members appointed for 4-year terms.

(2) Thereafter, all members of the council shall be

1 appointed for 4-year terms.

2 Section 3. Salary and expenses of board members.
3 Unless he is a full-time salaried officer or employee of
4 this state or of a political subdivision, each member is
5 entitled to be paid \$25 a day for each day in which he is
6 actually and necessarily engaged in board duties and to
7 reimbursement for travel expenses as provided for in
8 2-18-501 through 2-18-503, incurred in the performance of
9 board duties.

10 Section 4. Definitions. As used in [sections 1 through
11 ~~16~~ 14], unless the context clearly indicates otherwise, the
12 following definitions apply:

13 (1) "Antiquities permit" means the permit granted for
14 exploration or field investigations of heritage properties
15 or paleontological remains provided for in [section 8].

16 (2) "Heritage property" means any district, site,
17 building, structure, or object located upon or beneath the
18 earth or under water that is significant in American
19 history, architecture, archeology, or culture.

20 (3) "Historic preservation office" means the office
21 within the Montana historical society provided for in
22 [section 6].

23 (4) "Historic preservation officer" means the officer
24 provided for in [section 6].

25 (5) "Paleontological remains" means scientifically

1 significant fossilized plants and animals of a geological
2 nature found upon or beneath the earth or under water WHICH
3 ARE RARE AND CRITICAL TO SCIENTIFIC RESEARCH.

4 (6) "Preservation review board" means the board
5 provided for in [section 1].

6 (7) "Register" means the National Register of Historic
7 Places, the official list of the nation's heritage
8 properties worthy of preservation because of national,
9 state, or local significance.

10 (8) "Registered property" means any heritage property
11 listed in the register.

12 (9) "State agency" means any executive agency of the
13 state of Montana.

14 Section 5. Preservation review board -- duties. The
15 preservation review board shall:

16 (1) recommend nominations to the register;

17 (2) approve or disapprove all nominations to the
18 register;

19 (3) approve or disapprove additions to statewide
20 inventories of heritage properties;

21 (4) review the annual work program that recommends
22 preservation goals and grant allocations for the next
23 succeeding fiscal year; and

24 (5) act in an advisory capacity to the historic
25 preservation office and to state agencies.

Section 6. Historic preservation office -- duties of historic preservation officer. (1) There is established the historic preservation office within the Montana Historical Society to consist of an historic preservation officer and a qualified professional staff.

(2) The historic preservation officer is appointed by the governor.

(3) The historic preservation officer has the following duties and responsibilities:

(a) follow necessary procedures to qualify the state for money that is now or will be made available under any act of congress of the United States or otherwise for purposes of historic preservation;

(b) conduct an ongoing statewide survey to identify and document heritage properties and paleontological remains;

(c) maintain a state inventory file of heritage properties and paleontological remains and maintain a repository for all such inventory work done in the state;

(d) evaluate and formally nominate potential register properties according to the criteria established by the register;

(e) prepare and annually review the state preservation plan, register nominations, and historic preservation grant activity;

(f) maintain, publish, and disseminate information relating to heritage properties and paleontological remains in the state;

(g) cooperate with and assist local, state, and federal government agencies in comprehensive planning that allows for the preservation of heritage properties and paleontological remains;

(h) ENTER INTO COOPERATIVE AGREEMENTS WITH THE FEDERAL GOVERNMENT, LOCAL GOVERNMENTS, AND OTHER GOVERNMENTAL ENTITIES OR PRIVATE LANDOWNERS OR THE OWNERS OF OBJECTS TO ENSURE PRESERVATION AND PROTECTION OF REGISTERED PROPERTIES;

(1) any other necessary or appropriate activity permitted by law to carry out and enforce the provisions of [sections 3 through 16 14].

Section 7. Registration of heritage properties. (1) Any citizen of Montana may submit TO THE HISTORIC PRESERVATION OFFICER FOR HIS CONSIDERATION the necessary forms to nominate heritage properties to the register.

(2) For properties not administered, controlled, or owned by the state, the historic preservation officer may, upon approval by the preservation review board and after written notification APPROVAL by HE BY the landowner, nominate heritage properties to the register, and may enter into cooperative agreements with the federal government, local governments, and other governmental entities or

1 ~~private-landowners--or--the--owners--of--objects--to--ensure,~~
2 ~~preservation-and-protection-of-registered-properties.~~

3 (3) For lands administered,--controlled,--or owned by
4 the state, the historic preservation officer may, upon
5 approval by the preservation review board, nominate heritage
6 properties to the register. The historic preservation
7 officer shall notify the appropriate state agency and give
8 public notice when any property is being considered for
9 nomination. Unless state agency or public objections are
10 submitted in writing within 30 days after notification, the
11 historic preservation officer shall complete the
12 nominations. When a state agency or any citizen of Montana
13 submits written objections, the historic preservation
14 officer shall consider the objections and may conduct a
15 public hearing. IF A HEARING IS HELD, IT SHALL BE COMMENCED
16 WITHIN 30 DAYS AFTER THE FINAL DATE FOR SUBMISSION OF
17 WRITTEN OBJECTIONS. Within 60 days after submission of the
18 objections or after the public hearing, the historic
19 preservation officer shall make a final decision on the
20 proposed registration and prepare a statement responsive to
21 the objections submitted.

22 Section 8. Issuance of permits. (1) No person may
23 excavate, remove, or restore any heritage property or
24 paleontological remains on lands administered,--controlled,
25 or owned by the state without first obtaining an antiquities

1 permit from the historic preservation officer.

2 (2) Antiquities permits are to be granted only after
3 careful consideration of the application for a permit and
4 after consultation with the appropriate state agency.
5 Permits are subject to strict compliance with the following
6 guidelines:

7 (a) Antiquities permits may be granted only for work
8 to be undertaken by reputable museums, universities,
9 colleges, or other historical, scientific, or educational
10 institutions, societies, or persons with a view toward
11 dissemination of knowledge about cultural properties,
12 provided no such permit may be granted unless the historic
13 preservation officer is satisfied that the applicant
14 possesses the necessary qualifications to guarantee the
15 proper excavation of those sites and objects that may add
16 substantially to man's knowledge about Montana and its
17 antiquities.

18 (b) The antiquities permit must specify that a summary
19 report of such investigations, containing relevant maps,
20 documents, drawings, and photographs, be submitted to the
21 historic preservation officer. The historic preservation
22 officer shall determine the appropriate time period
23 allowable between all work undertaken and submission of the
24 summary report.

25 (3) All heritage property and paleontological remains

collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

Section 9. State agency participation. State agencies shall:

(1) adopt policies for the preservation of heritage properties and paleontological remains ON LANDS OWNED BY THE STATE and avoid, whenever feasible, state actions, or state assisted or licensed actions that substantially alter heritage properties or paleontological remains ON LANDS OWNED BY THE STATE;

(2) identify and develop, in consultation with the historic preservation officer, methods and procedures to ensure that the identification and protection of heritage properties and paleontological remains ON LANDS OWNED BY THE STATE is given appropriate consideration in state agency decisionmaking;

(3) deposit in the historic preservation office all inventory reports, including maps, photographs, and site forms, of heritage properties and paleontological remains.

Section 10. Environmental review process. (1) Each state agency responsible for the preparation of an environmental impact statement in accordance with the Montana Environmental Policy Act shall, as a part of its evaluation and study process, consult with and obtain the comments of the historic preservation officer concerning the identification and location of heritage properties and paleontological remains ON LANDS OWNED BY THE STATE that may be adversely impacted by the proposed actions, PROVIDED, HOWEVER, THAT WHERE THE GRANT OF AN INTEREST IN STATE LAND REQUIRES THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT UNDER THE MONTANA ENVIRONMENTAL POLICY ACT, THE ENVIRONMENTAL IMPACT STATEMENT SHALL BE LIMITED TO AN EVALUATION OF THE HERITAGE PROPERTIES AND PALEONTOLOGICAL REMAINS LOCATED IN, ON, UNDER AND WITHIN ONLY THE AFFECTED STATE LAND.

(2) When heritage properties and paleontological remains are located and identified as described in subsection (1), the responsible state agency, in consultation with the historic preservation officer and the preservation review board, shall include as part of its environmental impact statement a plan for the avoidance or mitigation of damage to heritage properties and paleontological remains to the greatest extent practicable. Whenever necessary or appropriate, the state agency may

1 require an applicant for a lease, permit, license, or other
2 approval FOR USE OF LAND OWNED BY THE STATE to develop an
3 avoidance or mitigation plan in consultation with the
4 historic preservation officer and the preservation review
5 board.

6 Section 11. Denial of applications. State agencies may
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8 easement, lease, permit, contract, license, or certificate
9 in order to protect registered HERITAGE properties AND
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11 PROVIDED THAT THIS SECTION IS LIMITED ONLY TO HERITAGE
12 PROPERTIES AND PALEONTOLOGICAL REMAINS WHICH HAVE BEEN
13 LOCATED AS A PART OF THE ENVIRONMENTAL IMPACT STATEMENT
14 REVIEWS PROCESS AS DESCRIBED IN [SECTION 10].

15 Section 12. Report of discovered heritage properties
16 or paleontological remains. Any person conducting
17 activities, including survey, excavation, or construction,
18 who discovers on any lands administered--controlled--or
19 owned by the state any heritage property or paleontological
20 remains as defined in [section 4] or who finds that an
21 operation licensed or otherwise entitled by the state may
22 damage heritage properties or paleontological remains ON ANY
23 LANDS OWNED BY THE STATE shall promptly report to the
24 historic preservation officer the discovery of such findings
25 and shall take all reasonable steps to ensure preservation

1 of the heritage property or paleontological remains.

2 ~~Section 13--Injury, damage, or removal of heritage~~
3 ~~property--and--paleontological--remains--No person may~~
4 ~~knowingly--or--purposely--injure--damage--or--remove--any~~
5 ~~heritage property or paleontological remains on private land~~
6 ~~without--written--consent--of--the--owner--or--on--lands~~
7 ~~administered, controlled, or owned by the state, without a~~
8 ~~permit pursuant to [section 8].~~

9 Section 13. Reproduction or sale of heritage property
10 and paleontological remains. (1) No person may reproduce or
11 falsely identify any heritage property or paleontological
12 remains with the intent to sell the property or remains as
13 an original.

14 (2) No person may sell any heritage property or
15 paleontological remains with the knowledge that the property
16 or remains have previously been collected or excavated in
17 violation of [sections 3-through-14 8, 12, AND 13].

18 Section 14. Violation a misdemeanor -- penalty. A
19 person violating any provision of [sections 3-through-14 8,
20 12, AND 13] is guilty of a misdemeanor and upon conviction
21 shall be fined not more than \$1,000 or be imprisoned in the
22 county jail for not more than 6 months, or both. Each day of
23 continued violation of any provision of [sections 3-through
24 14 8, 12, AND 13] constitutes a distinct and separate
25 offense.

1 ~~Section 16. Judicial remedies. The policies, duties,~~
2 ~~and procedures of [sections 3 through 14] are enforceable by~~
3 ~~any party on application to a district court of the state.~~
4 ~~The court may grant such relief, including injunctive~~
5 ~~relief, as it determines appropriate.~~

6 Section 15. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

12 Section 16. Repealer. Sections 22-3-401 through
13 22-3-413, MCA, are repealed.

-End-